

THE HONORABLE JOHN H. CHUN

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

FEDERAL TRADE COMMISSION, *et al.*,

Plaintiffs,

v.

AMAZON.COM, INC., a corporation,

Defendant.

CASE NO.: 2:23-cv-01495-JHC

JOINT STATUS REPORT

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Pursuant to the February 13, 2024 Case Management Order (“CMO”), Plaintiffs Federal Trade Commission (“FTC”) and the states and territories of New York, Connecticut, New Hampshire, Oklahoma, Oregon, Pennsylvania, Delaware, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, Puerto Rico, Rhode Island, Vermont, and Wisconsin, by and through their respective Attorneys General (together, “Plaintiff States,” and collectively with the FTC, “Plaintiffs”) and Defendant Amazon.com, Inc. (“Amazon”) submit this joint status report in advance of the parties’ December 2, 2024 status conference with the Court.

I. STATUS OF LITIGATION

Plaintiffs filed the Complaint on September 26, 2023, Dkt. #1, and filed an Amended Complaint adding Puerto Rico and Vermont as Plaintiffs on March 14, 2024, Dkt. #170. Amazon filed a Motion to Dismiss the Complaint on December 8, 2023, Dkt. #127, which the parties agreed and the Court ordered would be deemed to be Amazon’s Motion to Dismiss the Amended Complaint, Dkt. #175. The Court granted the motion as to certain state law claims and otherwise denied the motion on September 30, 2024, and granted leave to amend certain state law claims, Dkt. #289. The Court also granted Plaintiffs’ motion to bifurcate. Dkt. #289.

Plaintiffs filed a Second Amended Complaint on October 31, 2024, amending state law claims under the laws of Maryland, Pennsylvania, and New Jersey. Dkt. #326. Amazon filed a motion to dismiss the amended Pennsylvania and New Jersey claims on November 14, 2024. Dkt. #340. Amazon also filed an Answer to the Second Amended Complaint on November 14, 2024. Dkt. #341.

On February 13, 2024, the Court issued a Case Scheduling Order, Dkt. #159, that included the following key dates:

1	August 8, 2025	Close of Fact Discovery
2	February 23, 2026	Close of Expert Discovery
3	April 6, 2026	Deadline to File Dispositive and <i>Daubert</i> Motions
4		(with motions noted for June 15, 2026)
5	September 28, 2026	Final Pretrial Conference
6	October 13, 2026	Bench Trial

7 The Court has ordered certain interim deadlines for Amazon's productions of documents
 8 (the first of which has been satisfied), Dkt. ## 288 and 343, including:

9 October 21, 2024 (approx.): Amazon makes its first production of the Initial Set of
 10 documents

11 Amazon makes rolling productions every 2-3 weeks

12 January 31, 2025: Amazon substantially completes its production of the Initial
 13 Set of documents

14 February 21, 2025: Amazon provides a privilege log for all documents
 15 withheld from or redacted in the Initial Set of documents,
 16 consistent with the provisions of Dkt. ## 256 and 313

17 March 24, 2025: Amazon substantially completes its production of the
 18 Second Set of documents

19 April 14, 2025: Amazon provides a privilege log for all documents
 20 withheld from or redacted in the Second Set of documents,
 21 consistent with the provisions of Dkt. ## 256 and 313

22 The parties have been engaged in fact discovery for approximately thirteen months.

23 Approximately eight months remain before the scheduled close of fact discovery.

II. JOINT REPORT ON THE STATUS OF DISCOVERY

A. Party Discovery

The parties are continuing to meet and confer regarding various discovery issues, including:

- Amazon’s search for and production of documents from certain non-custodial sources;
- Amazon’s proposed “spam” protocol for custodians Andy Jassy and Jeff Bezos;
- The date range for certain productions of Amazon’s structured data;
- Amazon’s responses to Plaintiffs’ RFP No. 68, which concerns instructions on how to draft Amazon’s Global Competition Reviews and related issues around Amazon’s attorney-client privilege claims;
- The sufficiency of Amazon’s responses to Plaintiffs’ interrogatories; and
- Plaintiffs’ responses to Amazon’s July 30 interrogatories, which seek discovery on topics such as the identities of other participants in the relevant markets and the remedies Plaintiffs seek, among others.

The parties are hopeful that they will be able to resolve or narrow their disputes through further discussions, but will file discovery motions promptly if the parties come to an impasse. The Court has set a December 9, 2024 deadline for Plaintiffs to file motions regarding any disputes regarding non-custodial sources or Amazon’s proposed “spam” protocol for custodians Andy Jassy and Jeff Bezos. Dkt. #339.

B. Third Party Discovery

Plaintiffs have served 24 document subpoenas to third-party online retailers and marketplaces, third-party logistics providers, and sellers, and will continue to issue additional

1 subpoenas on a rolling basis as needed. Plaintiffs are conferring with third-party subpoena
2 recipients regarding the scope of their responses to Plaintiffs' requests.

3 Amazon has served 33 third-party subpoenas seeking documents from online retailers
4 and marketplaces, third-party logistics providers, and sellers. Amazon is in the process of
5 conferring with those parties to reach agreement on the documents to be produced in response to
6 Amazon's requests. Amazon expects to serve third-party document subpoenas on additional third
7 parties, including additional retailers, fulfillment and logistics providers, and other relevant
8 parties.

9 The parties have agreed to regular exchanges of information about subpoenas to third
10 parties and third parties' responses and objections. The parties have also agreed to hold joint
11 meet and confers when requested by third parties in order to minimize the burden of discovery
12 for them.

13 The parties have taken six depositions of third-party witnesses to date, including
14 coordinated depositions. Six third-party depositions have been scheduled in December 2024 or
15 early 2025.

16 **C. Economics Day**

17 The parties understand that the Court intends to discuss an Economics Day during the
18 December 2, 2024 Status Conference. For the Court's reference, the parties submitted their Joint
19 Statement Regarding Proposed Economics Day Hearing on June 27, 2024, Dkt. #263, and a list
20 of agreed topics for Economics Day on October 1, 2024, Dkt. #290.

III. PENDING MOTIONS

The chart below lists the motions that are pending before the Court:

Motion	Response	Reply	Notice Date
Plaintiffs' Motion to Compel (Dkt. #331) (11/5/2024)	Amazon's Response (Dkt. #350) (11/20/2024)	Plaintiffs' Reply (Dkt. #) (11/26/2024)	November 26, 2024
Amazon's Motion to Dismiss Counts XIV, XV, and XIX of Plaintiffs' Second Amended Complaint (Dkt. #340) (11/14/2024)			December 12, 2024

Dated: November 25, 2024

Respectfully submitted,

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